

Ex. 1

ALLISON COUGILL  
THOMAS SEHLER v. PROSPECT MORTGAGE

November 13, 2013

1

1 UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF VIRGINIA  
3 Alexandria Division

4 THOMAS SEHLER, et :  
5 al., :  
6 Plaintiffs, :  
7 v. : Civil Action No.  
8 PROSPECT MORTGAGE, : 1:13-cv-00473-JCC-TRJ  
9 LLC, :  
10 Defendant. :

11  
12 DEPOSITION OF  
13 ALLISON D. COUGILL

14  
15 Wednesday, November 13, 2013

16 11:03 a.m.

17  
18 Seyfarth Shaw, LLP  
19 975 F Street, N.W.  
20 Washington, D.C.

21  
22 Terry L. Bradley, Court Reporter



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1 question until I'm more specific.

2 I just, you know, I'm not a  
3 salesperson right now. So are you referring to  
4 when I was? Or --

5 Q. Is it your claim that you are not  
6 currently a salesperson?

7 A. I am not hired as a salesperson, no.  
8 I'm a loan originator.

9 Q. And what's the difference between  
10 being a salesperson and a loan originator?

11 A. I originate loans. I take loan  
12 applications over the phone. I take them in  
13 person. I don't go out on the street and sell  
14 anything.

15 Q. So it's your position in this case  
16 that you are not a salesperson?

17 A. I am not a salesperson.

18 Q. Then why don't you tell me what  
19 your --

20 -- how you would define a successful  
21 loan officer.

22 A. The ability to build relationships



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1 with my referral partners. The ability to know  
2 my product and how to relate that to my  
3 clients' needs for a loan. We have so many  
4 different loan products, I need to know every  
5 one and how that would relate to what they  
6 would specifically need from me.

7 Q. Anything else?

8 A. Specifically, computer knowledge,  
9 how to, you know, work the software, how to  
10 market -- you know, I have marketing materials,  
11 but those are provided to me. So I use those  
12 marketing materials -- and be truthful, be  
13 honest, have integrity, and you know, build  
14 relationships. That's what I feel like my job  
15 is about is being able to build relationships  
16 for the clients I do work with so they can  
17 refer business back to me for their friends,  
18 family, for repeat business, and I think that's  
19 why I have been successful for the 15 1/2 years  
20 I've been in the mortgage business.

21 Q. So would you say that building  
22 relationships is the most part of your job?



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1 A. Yes.

2 Q. And so how do you build  
3 relationships with people?

4 A. I answer their questions honestly,  
5 truthfully, listen to their needs. And when I  
6 feel like I understand their needs, I use my  
7 product knowledge and my experience to be able  
8 to find the right product for them to bring  
9 them a mortgage.

10 Q. Well, how do you meet them?

11 A. How do I meet whom?

12 Q. Your contacts. How do you have  
13 contacts?

14 A. I have different types of contacts.  
15 I have clients that I do loans for, and I have  
16 referral partners. So which specifically are  
17 you talking about?

18 Q. Let's talk about your referral  
19 partners first.

20 A. Okay.

21 Q. So how do you get referral partners?

22 A. I market to them through e-mail,



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1 through maybe networking associations.

2 Q. Anything else?

3 (Witness nodded.)

4 About how many referral partners  
5 would you say you have?

6 A. Currently?

7 Q. Yes.

8 A. 15, 20.

9 Q. Besides marketing through e-mail and  
10 networking, how else do you obtain referral  
11 partners?

12 A. I assume that people through word of  
13 mouth, you know, tell --

14 If I have a referral partner and  
15 somebody else hears that I'm doing a good job  
16 for them, that they maybe verbally tell  
17 them within the same office.

18 I've been doing it for 15 1/2 years.  
19 I just have a reputation that I do my job well.  
20 And you know, somebody gives my name to their  
21 co-worker, and they might call me.

22 Q. So let's talk about networking. How

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1 do you network to get referral partners?

2 A. I used to belong to a networking  
3 called BNI Group, called BNI, Business Network  
4 International. But I don't any more.

5 Q. How long were you a member of  
6 Business Network International?

7 A. Maybe three years.

8 Q. And so you would attend their  
9 events?

10 A. A lunch. It was a 1-hour lunch, 1  
11 1/2-hour lunch each week.

12 Q. What years were you a member of BNI?

13 A. 2011, 2010, maybe 2009. I'm not  
14 sure.

15 Q. So while you worked at Prospect,  
16 right?

17 A. Correct.

18 Q. How else do you network to get  
19 referral partners?

20 A. That's it.

21 Q. That's the only way you networked?

22 A. That's the only way I networked.

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1 can tell you how many open houses I usually  
2 did, but not as a result of the Hour of Power.

3 Q. Okay. Well, how many open houses  
4 did you usually do?

5 A. I used to do two every month at  
6 least at a minimum. They were on the weekends.

7 Q. How long would they last?

8 A. Four hours.

9 Q. Four hours each?

10 (Witness nodded.)

11 And where would they take place?

12 A. Anywhere there was an empty, cold,  
13 foreclosed property that the agent didn't want  
14 to open that I was able to get into to open for  
15 them. They were everywhere all over the  
16 Richmond area.

17 Q. So you did these open houses in the  
18 Richmond area?

19 A. The greater Richmond area.  
20 Richmond, Petersburg. Greater Richmond area.

21 Q. In this lawsuit are you claiming  
22 that you when you worked at Prospect Mortgage



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1 that you spent a majority of your time in the  
2 office?

3 A. Yes.

4 Q. And why is that?

5 A. Because I did.

6 Q. How much time did you spend working  
7 in the office when you were working for  
8 Prospect?

9 A. Eight hours, nine hours, ten hours a  
10 day.

11 Q. Every day?

12 A. Almost every day.

13 Q. What percentage of time would you  
14 say that you were spending in the office per  
15 week? Percentage of time in the office versus  
16 the total amount of time that you were working  
17 for Prospect.

18 A. 99.9 percent of the time I spent in  
19 the office working for Prospect.

20 Q. And how many hours total are you  
21 claiming that you worked per week for Prospect?

22 A. 50, 60 hours a week.

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1 us a very nice, you know, commission plus a  
2 draw. Which we all thought was great  
3 compensation for the hours that we worked and  
4 the amount of aggravation and stress we had to  
5 go through.

6 Q. And so how much were you making per  
7 year at IndyMac?

8 A. 80,000, 85,000.

9 Q. And that was based solely on  
10 commissions?

11 A. Plus a draw.

12 Q. And you didn't earn overtime pay  
13 while you were working at IndyMac?

14 A. Not that I know of.

15 Q. You didn't have to record your hours  
16 and report them to anyone?

17 A. No, I did not.

18 Q. Did anybody tell you at IndyMac that  
19 you were expected to spend a certain amount of  
20 time outside the office?

21 A. No.

22 Q. At some point IndyMac became

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1 Prospect, right?

2 A. Correct.

3 Q. Do you remember when that was?

4 A. A year to the day, almost, that we  
5 became IndyMac. Sometime around the end of  
6 July of 2008.

7 Q. And did Prospect take on all the  
8 loan officers that were in the IndyMac office?

9 A. Yes.

10 Q. Before we talk about your time spent  
11 at Prospect, I just want to talk about what  
12 you've done since you've left Prospect. So you  
13 left Prospect in 2011?

14 A. Correct.

15 Q. Where did you work after leaving  
16 Prospect?

17 A. I worked for Brand Mortgage,  
18 B-R-A-N-D, Mortgage.

19 Q. Beginning immediately after leaving  
20 Prospect?

21 A. I resigned one day from Prospect and  
22 went to work the next for Brand.

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1 A. Correct.

2 Q. At any time during your three years  
3 at Prospect, did you complain to anybody at  
4 Prospect about the commission structure?

5 A. Yes. We all talked about Rick  
6 Eaheart. When I resigned --

7 Q. Can you hold one second. I just  
8 want to get my entire question out.

9 Who did you complain about a  
10 commission structure --

11 To whom did you complain about the  
12 commission structure at Prospect?

13 A. Rick Eaheart.

14 Q. Anybody else?

15 A. Doug Houston.

16 Q. Anybody else?

17 A. Those were who I reported to.  
18 Nobody else.

19 Q. Did you ever tell Rick Eaheart that  
20 you thought you should be paid overtime?

21 A. No.

22 Q. Did you ever tell Doug Houston that

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1 you should be paid overtime?

2 A. No.

3 Q. Do you understand that you opted  
4 into a collective action in California against  
5 Prospect called Sliger versus Prospect, right?

6 A. I don't know. I just opted into a  
7 case, but I felt like I should be fairly  
8 compensated for my time that I worked there.

9 Q. You understand you opted into a case  
10 against Prospect --

11 A. Yes.

12 Q. -- to obtain overtime compensation?

13 A. Fair pay and overtime. Yes.

14 Q. What do you mean when you say "fair  
15 pay?"

16 A. Again, being paid fairly for the  
17 hours that I worked and for the amount of work  
18 they required me to do to do my job.

19 Q. Well, if I told you that case was  
20 named Sliger, S-L-I-G-E-R, does that sound  
21 familiar?

22 A. No.

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1                   -- personal Yahoo account to send  
2   yourself documents or to send documents to  
3   yourself from Prospect?

4           A.     No.

5           Q.     You started working for Prospect  
6   around July or August 2008, right?

7           A.     Yes.

8           Q.     That was about the time that IndyMac  
9   transitioned over to Prospect?

10          A.     Yes.

11          Q.     Did you work at the Richmond office  
12   throughout your employment with Prospect?

13          A.     Yes.

14          Q.     And who was your supervisor in the  
15   Richmond office?

16          A.     Rick Eaheart t.

17          Q.     Who was Rick's supervisor?

18          A.     Doug Houston.

19          Q.     Eventually your supervisor switched  
20   to Arthur Smith, right?

21          A.     Correct.

22          Q.     If I told you that was around



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1 December 1st, 2010, does that sound about  
2 right?

3 A. Probably. I was thinking January,  
4 so that was probably right.

5 Q. And why did your supervisor switch?

6 A. I don't know.

7 Q. When Prospect took over IndyMac did  
8 you have to make any sort of representations to  
9 Prospect about your loan production or anything  
10 about how many referral sources you had?

11 A. No.

12 Q. Prospect just took on all the loan  
13 officers that were working for IndyMac?

14 A. Yes.

15 Q. About how many referral sources did  
16 you have at the time?

17 A. From the time that I became Prospect  
18 or IndyMac.

19 Q. Yes. At the time that Prospect took  
20 over IndyMac?

21 A. I don't know.

22 Q. Can you estimate?



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1 A. 25.

2 (Exhibit 4 marked for  
3 identification.)

4 Q. The court reporter has just handed  
5 you what's been marked as Cougill Exhibit 4.  
6 Do you recognize this document?

7 A. Yes.

8 Q. And this is your Loan Officer  
9 Compensation Plan for when you were at  
10 Prospect, right?

11 A. Yes.

12 Q. And it's dated August 8, 2008?

13 A. Yes.

14 Q. And if you turn to the third page of  
15 the document where there's a signature where it  
16 says "Allison Cougill, Loan Officer", right?

17 A. Yes.

18 Q. And that's your signature?

19 A. Yes.

20 Q. And you've signed this document on  
21 July 31st, 2008, right?

22 A. Yes.



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1 Q. So if you look at the third page of  
2 the document at the top of the third page  
3 there's a paragraph entitled, "FLSA Status."

4 Do you see that paragraph?

5 A. I do.

6 Q. And that paragraphs says:

7 "This outside sales position has  
8 been deemed exempt based on the requirements of  
9 the Fair Labor Standards Act and applicable  
10 state law. Employee agrees to comply with the  
11 requirements of Prospect Mortgage's Employee  
12 Agreement Regarding Outside Sales Activities,  
13 including completing a Quarterly Exemption  
14 Certification".

15 And by signing the compensation plan  
16 you were agreeing with that paragraph, right?

17 A. No, I was not.

18 Q. You were not agreeing with that  
19 paragraph?

20 A. That's the paragraph that Rick  
21 Eaheart brought to our attention that we didn't  
22 agree with but we were told we had to sign this

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1 Q. Right. The language right above  
2 your signature on the third page of the  
3 compensation plan says:

4 "By executing this compensation plan  
5 I acknowledge that I have read, understand and  
6 agree to all terms and conditions of this  
7 plan."

8 And you agreed with that, right?

9 A. Yes.

10 Q. And so you agreed with the plan?

11 A. Yes.

12 (Exhibit 5 marked for  
13 identification.)

14 Q. The court reporter has handed you  
15 what has been marked as Cougill Exhibit 5. Do  
16 you recognize this document?

17 A. Yes.

18 Q. This is the loan officer  
19 employment --

20 Your Loan Officer Employment  
21 Agreement, right?

22 A. Yes.



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1 Q. And the effective date is August 8,  
2 2008?

3 A. I guess. I guess so.

4 Q. And there if you look at the bottom  
5 of each page in the right --

6 -- bottom right hand corner, there  
7 are initials on each page, right?

8 A. Right.

9 Q. And are those your initials?

10 A. Yes.

11 Q. You initialed those pages?

12 A. Yes.

13 Q. And by initialing these pages you  
14 were saying that you had read and understood  
15 the terms on that page, right?

16 A. Correct.

17 Q. And if you look at Page 4 of the  
18 agreement, there is no signature where it says  
19 "Allison Cougill, Loan Officer". Do you  
20 remember signing this agreement?

21 A. No.

22 Q. Do you think there is any reason why

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1 you would initial the page but not sign the  
2 agreement?

3 A. I don't know. Maybe I didn't agree  
4 to sign it. I don't know.

5 Q. If you look at the first page of the  
6 agreement, there's a paragraph, Paragraph e  
7 titled "Duties and Responsibilities". Do you  
8 see that?

9 A. Yes.

10 Q. Now, there's a sentence that begins  
11 towards the end of that paragraph that says:

12 "Employee understands and  
13 acknowledges that in performing duties on  
14 behalf of Prospect Mortgage, employee shall  
15 comply with the terms of Prospect Mortgage's  
16 Employee Agreement Regarding Outside Sales  
17 Activities and meet or exceed the minimum  
18 performance goals set in the Loan Officer  
19 Performance Improvement Plan."

20 Do you see that language?

21 A. Yes.

22 Q. And by initialing this agreement you

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1 acknowledge that you've read and understood and  
2 agreed with that paragraph, right?

3 A. I was never part of the Loan Officer  
4 Performance Improvement Plan.

5 Q. You were never part of the Loan  
6 Officer Performance Improvement Plan?

7 A. I was not.

8 Q. But you otherwise agreed to the  
9 terms in that paragraph, right?

10 A. Yes.

11 (Exhibit 6 marked for  
12 identification.)

13 Q. The court reporter has just handed  
14 you what's been mark this as Cougill Exhibit 6.  
15 Do you recognize this document?

16 A. Yes.

17 Q. This is the Loan Officer Performance  
18 Improvement Plan, right?

19 A. Correct.

20 Q. And if you look at that time 4th  
21 page of the document, there's a signature above  
22 the name "Allison D. Cougill". Do you see

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1 that?

2 A. Yes.

3 Q. And that's your signature, right?

4 A. Correct.

5 Q. And you signed this document on

6 July 31st, 2008?

7 A. Correct.

8 Q. Now on the first page of the  
9 Performance Improvement Plan, there's a  
10 paragraph titled "Minimum Standards". Do you  
11 see that?

12 A. Yes.

13 Q. And that paragraph outlines the  
14 standards and expectations of loan officers,  
15 right?

16 A. Correct.

17 Q. And by signing this document you  
18 agreed to be subject to those standards, right.

19 A. Correct.

20 (Exhibit 7 marked for  
21 identification.)

22 Q. The court reporter has just handed

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1 Status". You see that?

2 A. Yes.

3 Q. And that paragraph states:

4 "Once the employee receives his or  
5 her license from the state in which employee  
6 will originate loans, employee will be an  
7 outside sales position that is exempt from the  
8 requirements of the Fair Labor Standards Act  
9 and applicable states law."

10 You see that language?

11 A. Yes.

12 Q. And by initialing that law you  
13 agreed to that language, right?

14 A. Yes.

15 Q. You agreed your position was an  
16 outside position?

17 A. My position was never an outside  
18 sales position, but if that's what they wanted  
19 to say, that's fine. But I didn't agree to  
20 that, but I signed it. Yes.

21 Q. But Prospect's expectation was you  
22 were going to be an outside salesperson, right?



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1 A. According to this. Yes.

2 (Exhibit 8 marked for  
3 identification.)

4 Q. The court reporter has handed you  
5 what's been marked Cougill Exhibit 8. Do you  
6 recognize this document?

7 A. Yes.

8 Q. This is the Employee Agreement  
9 Regarding Outside Sales Activities, right?

10 A. Yes.

11 Q. And if you look at Page 3 there's a  
12 signature above the name "Allison D. Cougill",  
13 and you see that?

14 A. Yes.

15 Q. And that's your signature, right?

16 A. Yes.

17 Q. And you signed this document on  
18 July 31st, 2008, right?

19 A. Yes.

20 Q. Now, what did you understand this  
21 agreement to mean when you signed it?

22 A. I didn't read it to understand it.



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1 I've done my job the same way for 15 years. So  
2 by signing this agreement, I just signed it so  
3 I could keep my job.

4 Q. Right. But you --

5 Even though you had been in the loan  
6 industry for a number of years, you were  
7 starting with a new employer, right?

8 A. Basically.

9 Q. When you started with Prospect?

10 A. Basically.

11 Q. And so it was reasonable that  
12 Prospect might have had different expectations  
13 than your previous employers. Is that right?

14 A. Not to me.

15 Q. It wasn't reasonable to you that  
16 they have different expectations?

17 A. No. Because Prospect Mortgage was  
18 American Home Mortgage who I had worked for for  
19 the previous four years and they had never  
20 changed anything as far as my duties as a loan  
21 officer. Prospect Mortgage was old American  
22 Home Mortgage, the same management, the same



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1 person.

2 Q. Your own manager told you not to  
3 sign the agreement, right?

4 A. Correct.

5 My manager --

6 Q. There's no question before you.

7 Now, Paragraph 5 of Exhibit 8, the  
8 Agreement Regarding Outside Sales Activities,  
9 talks about quarterly exemption certifications.  
10 Did you ever --

11 Did you ever certify on a quarterly  
12 basis for Prospect Mortgage that your primary  
13 duty was outside sales?

14 A. I've never seen that agreement.

15 Q. You've never completed a quarterly  
16 exemption certification?

17 A. Never.

18 Q. If you turn to Page 2 of the  
19 Agreement Regarding Outside Sales. Paragraph 4  
20 outlines procedures for you to contact human  
21 resources if you're unable to comply with the  
22 outside sales exempt duties requirements in the

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1 position.

2 Did you ever contact human resources  
3 or the Vice President of human resources and  
4 tell them that you were not able to comply with  
5 the outside sales exempt duties requirements?

6 A. No, I did not.

7 Q. Earlier in this deposition you told  
8 me that your job as a loan officer was not to  
9 sell loans. It was to originate loans. Is  
10 that right?

11 A. That's correct.

12 Q. How do you originate a loan?

13 A. I either call or get a call from a  
14 borrower who gives me all of their information  
15 that I have to fill out on an application, and  
16 fill that out, and that's an origination.

17 Q. So your position is that filling  
18 out a loan application is an organization?

19 A. According to RESPA?

20 Q. Well, there are a number of steps  
21 that you have to do before you get there,  
22 right? Earlier you talked about identifying



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1 products and having knowledge about the loan  
2 products that you are offering. Is that right?

3 A. Yes.

4 Q. So you have to match up a loan to  
5 the need of the buyer, right?

6 A. Correct.

7 Q. So they have to --

8 And you want your --

9 You want that buyer to pick your  
10 loan product over a competitor's loan product,  
11 right?

12 A. Correct.

13 Q. And you offer a number of different  
14 products so you're going o help them try to  
15 figure out which ones best fit their needs?

16 A. Correct.

17 Q. And at the end of the day if they  
18 decide to get a product from you, they're  
19 buying that product, right?

20 A. They're not buying it, no. I mean,  
21 I don't sell it. There's no cost on it. I do  
22 my job for free. I don't have an origination



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1 fee or I don't charge an application fee or  
2 anything so they're not buying anything.

3 Q. You're not doing your job for free,  
4 right? You're getting a commission.

5 A. If I don't get that loan I work for  
6 free.

7 Q. Well, but your end goal is to get  
8 them to buy the loan so that the company can  
9 make a profit off of that, right? The company  
10 will get --

11 A. They're not buying anything.

12 Q. The company will get a revenue from  
13 the loan that the buyer eventually gets, right?

14 A. Correct.

15 Q. And you get a commission off of  
16 that, right?

17 A. Yes.

18 Q. So what is the difference between  
19 that and doing sales?

20 A. I don't have anything to sell. I'm  
21 not selling anything.

22 Q. Well, how can you say you're not



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1 selling something when at the end of the day  
2 you're trying to get the buyer to choose your  
3 product over somebody else's product. Isn't  
4 that the same thing?

5 A. I don't have --

6 I have nothing tangible to sell them  
7 with like I did a copier going door-to-door and  
8 say:

9 Here's my product. Buy it from me.

10 My product is like everybody else's  
11 product. I'm not selling it. I'm just out  
12 there selling my company, the company itself,  
13 an image, my image, my trust, and I do that  
14 over a phone call. I have ten minutes to  
15 convince a borrower that they can trust me with  
16 their information that they're giving me over  
17 the phone, their social security number for me  
18 to pull their credit, all their asset  
19 information. I have to build trust in somebody  
20 over a five to ten minute period while I've got  
21 them on the phone. That's all I have to sell.  
22 It's just me, my trust, and that's it. If they

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1 feel good, they might give me their information  
2 over the phone so I can get their application.  
3 Then I can do my job to figure out where the  
4 information they gave me, what product best  
5 suits there needs, whether I even have a  
6 product that suits their needs or not.

7 Q. So you're selling a service. Is  
8 that what you're saying?

9 A. Yes.

10 Q. So you're selling a service, the  
11 service of you taking their loan application?

12 A. I'm selling trust in myself so I can  
13 sell a service later, I suppose. I'm not  
14 selling anything because I don't get paid for  
15 it. I don't get paid until it's closed. If  
16 that loan never closes --

17 There's lots and lots and lots of  
18 applications that I have take that never close  
19 and I never get paid for.

20 Q. But did end game, I mean, you're  
21 bringing in loans with the idea that they're  
22 eventually going to be closed, right?



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1 Would you say you attended at least one a  
2 month?

3 A. Yes.

4 Q. At least two?

5 A. I don't know.

6 Q. At least once a week?

7 A. No.

8 Q. Not once a week?

9 A. No. Not once a week.

10 Q. But at least one to two times a  
11 month?

12 A. Yes.

13 Q. And how long do the closings last?

14 A. Anywhere from 30 minutes to an hour.

15 Q. And where would they take place?

16 A. In an attorney's office.

17 Q. Did you attend open houses when you  
18 worked at Prospect?

19 A. Yes.

20 Q. How often?

21 A. Before I left Prospect, in probably  
22 in 2010 and '11, I probably did one to two a





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1 weekend for the last two years.

2 Q. And how long would you spend at each  
3 open house?

4 A. At least four hours.

5 Q. Could it be sometimes more?

6 A. More than four hours?

7 Q. More than four hours.

8 A. It could have been. Maybe if they  
9 were busy or if there were traffic through,  
10 like a lot of traffic. By the time I got them  
11 set up or shut down it might be four or five  
12 hours total.

13 Q. And where would those open houses  
14 take place?

15 A. They would take place in foreclosure  
16 listings of agents that were assigned to us by  
17 Prospect to work.

18 Q. And are those in the Richmond area?

19 A. Yes.

20 Q. And how far around your office would  
21 they be?

22 A. Some would be 30, 35 miles away.



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1 Some could be a mile from my house. They were  
2 on the weekends. So from my house I remember  
3 doing one or two in my neighborhood. Most of  
4 them were like 15 to 30 minutes away.

5 Q. And so if they're on the weekend you  
6 would leave your house in order to --

7 You wouldn't go from the office to  
8 an open house?

9 A. There were occasions when I had to  
10 go to the office before to print materials to  
11 bring to the open house. So if I had to do  
12 that I would run to the office, make copies,  
13 make prints, marketing stuff that we had to  
14 have filled out and bring to the open house.

15 Q. Did you do Home Buyer Seminars when  
16 you worked at Prospect?

17 A. Yes.

18 Q. How often?

19 A. Maybe once every two months for a  
20 while. Not every year. Not every month.

21 Q. And how much time is involved doing  
22 a Home Buyer Seminar?

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1 A. Two hours. About two to three hours  
2 each.

3 Q. And where would those seminars take  
4 place?

5 A. Different places. I taught the  
6 Virginia housing. It was VHD, a Home Buyer  
7 Classes for the military at Fort Lee. That was  
8 in Petersburg, Virginia, which is about  
9 45 minutes from Richmond. I did that every  
10 other month for about a year.

11 Q. So six times you did that?

12 A. Probably.

13 And every now and then we'd have one  
14 or two at a church or a real estate office.

15 Q. So that's in addition to these VHD  
16 Home Buyer Seminars?

17 A. Yes.

18 Q. And what days of the week would  
19 those VHD Home Buyer Seminars take place on?

20 A. The ones I did were particularly  
21 Tuesday and Thursday nights from like 5 to 9.

22 Q. The ones that you did at a church or



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1 other places, where were they?

2 A. They would typically be like on a  
3 Saturday morning. Maybe you know, 10 to 1.

4 Q. And how often did you do those?

5 A. Not very often. I probably did  
6 three total that I remember doing.

7 Q. Three total while you were working  
8 at Prospect?

9 (Witness nodded.)

10 And where would those be located?

11 A. I remember doing one in a church. I  
12 remember doing several in the real estate  
13 office, one of the realtors that I worked with.  
14 We did it in their office a couple of times.

15 Q. Are those all in the Richmond area?

16 A. Oh, yes. Yes.

17 Q. The ones at the real estate office,  
18 was that also on Saturdays?

19 A. It was at night, after hours, so  
20 people could come from after work.

21 Q. So weekdays? After hours on  
22 weekdays?

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1 A. Yes.

2 Q. How far from your office was the  
3 real estate office?

4 A. It was about 30 minutes.

5 Q. Did you ever do, when you worked at  
6 Prospect, field visits to your existing  
7 referral partners? Like real estate offices.

8 A. Not that I remember.

9 Q. Would you do meetings with builders?

10 A. I don't work with very many  
11 builders. No.

12 Q. Would you do presentations?

13 A. I did some presentations for one of  
14 my real estate offices a couple of times at  
15 lunch. I did like --

16 It's called a Lunch & Learn. Maybe  
17 one or two.

18 Q. One or two?

19 A. Right.

20 Q. And how long would those last?

21 A. An hour.

22 Q. And where were those located?



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1 A. The one I remember doing for the  
2 realtor Exit office in Midlothian. So --

3 Q. And how far is that from your --

4 A. About 35 minutes?

5 Q. -- branch office.

6 Did you ever attend trade shows?

7 A. Yes.

8 Q. How often?

9 A. Maybe once a year.

10 Q. And how long would you spend at the  
11 trade show?

12 A. A couple of hours.

13 Q. Where would it take place?

14 A. Convention Center in Richmond.

15 Q. How far is that from the branch  
16 office?

17 A. 20 minutes.

18 Q. Did you ever attend Chamber of  
19 Commerce events?

20 A. No.

21 Q. Did you ever distribute flyers?

22 A. Yes.

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1 Q. How often?

2 A. Not very often. I usually just  
3 e-mailed them to my real estate agents. It had  
4 my marketing information on it so they can give  
5 it to their prospective clients or something  
6 like that. But every now and then I bring them  
7 to the open houses.

8 Q. So you would either e-mail them to  
9 agents or you would bring them with you to open  
10 houses?

11 A. Yes.

12 Q. Did you ever have breakfast, lunch  
13 or dinner with any of your referral sources.

14 A. Yes.

15 Q. How often?

16 A. Once every couple months.

17 Q. How long would you spend at each  
18 meeting?

19 A. About an hour.

20 Q. All in Richmond?

21 A. Yes.

22 Q. Would you ever have meetings with

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1 week working on my marketing.

2 Q. Earlier in this deposition you  
3 testified that you used to belong to a Group  
4 called Business Network International?

5 A. Yes.

6 Q. And you belonged to that  
7 organization for about three years, right?

8 A. Correct.

9 Q. And you would spend an hour and a  
10 half for lunch every week?

11 A. Not every week. They were held  
12 every week, but I couldn't always make it every  
13 week because I was just busy in the office  
14 doing loan originations or --

15 Q. So how often would you attend their  
16 meetings?

17 A. At least twice a month.

18 Q. All these meetings that I just  
19 mentioned, closings, open houses, Home Buyer  
20 Seminars, visits and meetings with realtors,  
21 trade shows, those sorts of things, would you  
22 agree with me those are all sales activities.



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1 A. No.

2 Q. Why not?

3 A. They're relationship building  
4 activities. I didn't have anything to sell to  
5 them. I didn't have a trinket to sell. It was  
6 all about relationships to me. It's just my  
7 opportunity to get in front of somebody that  
8 has a similar goal in mind, and that's to meet  
9 the client that wants to buy a home. And it's  
10 about a relationship. I don't have anything to  
11 sell?

12 Q. Would you agree with me that  
13 relationship building is important to selling?

14 A. Yes.

15 Q. Now you were selling home  
16 residential loans when you worked at Prospect?

17 A. I wasn't selling anything. I was  
18 originating residential mortgage loans.

19 Q. Well, you were offering residential  
20 mortgage loans, right?

21 A. Correct.

22 Q. And what was your production like



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1 when you were at Prospect?

2 A. Some days it was good and some  
3 months it was bad. It was up and down.

4 Q. There were minimum production  
5 standards, right?

6 A. Did think have minimum production --

7 Q. Prospect had minimum production  
8 standards?

9 A. Yes.

10 Q. And did you meet those production  
11 standards?

12 A. Yes.

13 Q. How much --

14 What was the highest percentage of  
15 time you would say that you would spend outside  
16 of the office in a week working for Prospect?

17 A. A half percent.

18 Q. A half percent?

19 A. I was hardly ever out of the office.

20 As far as on a weekly basis during the day,  
21 business day of the week, I would go to a  
22 lunch, like I said, BNI. That was once a week

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1 -- once a year. On a weekly  
2 basis --

3 Q. You were doing a number of things  
4 outside the office, right? You attended open  
5 house.

6 A. Those were on the weekend.

7 Q. You had these Home Buyer Seminars?

8 A. Those are at night.

9 Q. Are you not counting the time you  
10 spent on the weekends when you say you spent a  
11 half percent of your time outside of the  
12 office?

13 A. Your question was doing --  
14 You didn't ask me about the weekends  
15 or at night when I did them. You just said  
16 outside the office, normal business hours.

17 Q. Did you think my question was how  
18 much time you were spending outside the office  
19 in the business week?

20 A. During business week. Yes.

21 Q. Okay. So if we are not --

22 If you are not --

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1 Q. Working for Prospect.

2 A. Working in what --

3 I'm trying to get to what type of  
4 work. I mean, the open houses? Or --

5 Q. I'm not limiting it. Anything you  
6 did for Prospect.

7 A. How many hours a week?

8 Q. Yes. And I'm including the  
9 weekends.

10 A. Okay. I don't know. For the three  
11 years I worked there I don't know how many  
12 hours.

13 Q. Can you estimate?

14 A. On average I would work two open  
15 houses a month for four to five hours each, and  
16 I did that for almost three years. I worked  
17 weekends. I worked at night.

18 Q. I'm not asking you about --

19 A. All those hours.

20 Q. I'm asking you about the time you  
21 spent outside of the office for Prospect. So  
22 that includes open houses. That includes the

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1 trades shows. That includes the meetings with  
2 the realtors. All those things. Give me an  
3 estimate of how many hours a week on average  
4 that you think you worked outside of the office  
5 and outside of your home office?

6 A. 15 to 20 hours a week.

7 Q. So 15 to 20 hours a week working  
8 outside of the office, plus 20 hours a week at  
9 home?

10 A. Yeah. You just told me to include  
11 it together.

12 Q. No. I told you not to include the  
13 time that you worked at home.

14 A. Okay. Here's my average day. I  
15 would go to the office. I would work from  
16 8 o'clock till 5 or 6 o'clock. I'd go home. I  
17 would spend another four hours at home working.  
18 On the weekends I'd go to an open house for  
19 four to five hours twice a month. I would go  
20 to a trade show once a year, five, six hours.  
21 I'd take a realtor to lunch an hour once a  
22 month. You add it up.

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1 Q. That's --

2 A. That's what I did --

3 Q. That's all?

4 A. -- on a regular basis. I worked  
5 from, you know, 8 in the morning till 6 at  
6 night in the office. I'd go home and work at  
7 night. I'd go to the open houses I was  
8 required to. I taught my Home Buyer Classes.  
9 I did whatever. I don't know how to add it up.  
10 I didn't keep a time clock. I don't know how  
11 many hours.

12 I worked on the weekends. I took  
13 loan applications on the weekends. I worked  
14 all the time for Prospect Mortgage.

15 Q. How many face-to-face meetings would  
16 you have with realtors in any given week?

17 A. Very few. I didn't go face-to-face  
18 with my realtors on a weekly basis.

19 Q. And how many hours a week do you  
20 estimate that you were working total for  
21 Prospect?

22 A. Per week?



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1 Q. Yes.

2 A. 70. 60 to 70 hours week. I just  
3 worked all the time.

4 Q. Well, tell me what was different  
5 about working at Prospect that meant you were  
6 working 60 to 70 hours in a week, whereas you  
7 were working 40 to 55 hours a week at some of  
8 your prior jobs?

9 A. I wasn't required to do what  
10 Prospect Mortgage asked me to do.

11 Q. What was that?

12 A. I was not required to do open houses  
13 on the weekend. I was not required to do Home  
14 Buyers Marketing. I was not required to, you  
15 know, call the agents on the Hour of Power  
16 every Friday and then follow up with another  
17 conference call to Todd Duncan. I was just  
18 able to originate and do my job. But all the  
19 hours.

20 Q. You admit that Prospect required you  
21 to do open houses, right? On the weekends.

22 A. Yeah. They required.

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1 Q. And Prospect required you to do Home  
2 Buyers Marketing?

3 A. Yes.

4 Q. And Prospect required you to do Hour  
5 of Power to try to get more meetings with  
6 people, right.

7 A. Yes.

8 Q. Is there any other reason why the  
9 amount of hours you were spending in the office  
10 was much larger than at your prior places of  
11 employment?

12 A. No. I don't know.

13 Q. So your testimony is that you had a  
14 home office. Is that right?

15 A. Yes.

16 Q. Do you have a separate room in your  
17 home that you dedicated to an office?

18 A. Yes.

19 Q. Did it have a separate phone line?

20 A. Yes.

21 Q. Did you have a computer in that  
22 office?



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1 identification.)

2 Q. The court reporter has handed you  
3 what's been marked as Cougill Exhibit 10. Do  
4 you recognize this document?

5 A. Yes.

6 Q. This is a Schedule A of Form 2106  
7 that you submitted it to IRS with your 2009 tax  
8 return, right?

9 A. Yes.

10 Q. And in 2009 you reported in Line 21  
11 that you had \$12,503 in business --

12 -- un-reimbursed employee expenses  
13 in 2009, right?

14 A. Yes.

15 Q. And tell me how did you come to that  
16 number 12,503?

17 A. Again, with my receipts for business  
18 expenses that the accountant asked me for,  
19 including my cell phone bill and my car  
20 expenses.

21 Q. Cell phone, car, what else?

22 A. Meals, entertainment.

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1 Q. What else?

2 A. And my mileage.

3 Q. Anything else?

4 A. No.

5 Q. If you turn to the second page,  
6 which is the first page of Form 2106, you  
7 reported \$485 in meals and entertainment  
8 expenses in 2009.

9 A. Page 2?

10 Q. On the second page.

11 A. I'm sorry. On the wrong page.

12 Q. Line 5 you reported \$485 in meals  
13 and entertainment expenses.

14 A. Yes.

15 Q. And can you tell me what was that  
16 for?

17 A. Meals and entertainment. I suppose  
18 that was taking somebody to lunch or cup of  
19 coffee or things that I had to pay for.

20 Q. Lunch and coffee. Anything else?

21 A. I'm not sure without looking at the  
22 receipts, but if they were under that meals and

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1 entertainment, they must have had a receipt for  
2 that category.

3 Q. How many lunches do you think you  
4 took people on in 2009?

5 A. I don't know.

6 Q. How much would you spend generally  
7 on average on a lunch for a real estate agent?

8 A. \$35 maybe.

9 Q. And how much would you spend  
10 generally for coffee?

11 A. \$15.

12 Q. If you turn to the third page of the  
13 document, that's the second page of the form  
14 2106. You reported that you drove  
15 12,649 miles, business miles, in 2009. This is  
16 Line 13. You see that, right?

17 A. Yes.

18 Q. And did you in fact drive 12,649  
19 miles for business?

20 A. I didn't calculate it. I just gave  
21 him the odometer reading as I did the year  
22 before.

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1 Q. So you didn't actually drive  
2 12,649 miles?

3 A. I don't know.

4 Q. So this document, for all you know,  
5 is not accurate?

6 A. As far as I know it is accurate  
7 because I paid the accountant to be accurate  
8 and file my tax returns accurately to the IRS.

9 Q. Well how did you --  
10 So looking even further, your tax  
11 return states on Line 14 that 90 percent of  
12 your car use was for business use.

13 A. Because I go to work in the morning,  
14 I stay there all day, and then I come home. I  
15 drive back and forth to work, and occasionally  
16 I go on appointments and I don't drive it  
17 anywhere else for leisure. That's it.

18 Q. So you're including commuter time or  
19 commuting use into that calculation?

20 A. Commuting to back and forth to work?

21 Q. Yes.

22 A. That's all I do. I go to work all

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1 the time, every day of the week. 90 percent of  
2 my time I suppose it's correct that I go to  
3 work and I come home and I use my car to go on  
4 appointments and whatever else I have to do for  
5 work.

6 Q. So that includes commuting time?

7 A. I don't drive to the movies. I  
8 don't go to lunch with my friends.

9 Q. Your accountant calculated this  
10 mileage based --

11 -- including the amount of commuting  
12 time that you spend using your car?

13 A. I assume, yes.

14 Q. Look at Question No.18. It asks:

15 "Was your vehicle available for  
16 personal use during off duty hours?"

17 And you checked "no". Is that  
18 right?

19 A. I didn't check that box.

20 Q. You didn't fill out this form so you  
21 are taking no responsibility for what's on this  
22 form?

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1 A. I did not fill this out.

2 Q. You submitted it to the IRS, right?

3 A. My accountant submitted it to the  
4 IRS.

5 Q. And you didn't review it before you  
6 submitted it to the IRS?

7 A. I signed it.

8 Q. You signed it without reading it?

9 A. Yes.

10 Q. Without agreeing with it?

11 A. Yes.

12 Q. Without understanding it?

13 A. I paid the accountant to do his job,  
14 and I expected him to do his job. And if he  
15 didn't do it right, he's accountable to the  
16 IRS.

17 Q. So if the IRS comes calling and  
18 asking you about this Schedule A on 2106,  
19 you're going to say it's the accountant's  
20 fault?

21 A. Yes, I will.

22 Q. Well, regardless of who filled out

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1 the form, you're representing to the IRS that  
2 you spent 12,600 --

3 -- that you drove 12,649 miles for  
4 business purposes in 2009, right?

5 MR. ZAUN: Objection, asked and  
6 answered.

7 THE WITNESS: Yes.

8 BY MS. MURAKAMI:

9 Q. And that's about 243 miles a week,  
10 right?

11 A. You do the math.

12 Q. I did the math beforehand. And if  
13 you're estimating a 52-week year, that's about  
14 243 miles a week.

15 A. Okay.

16 Q. You don't have any reason to doubt  
17 that, right?

18 A. Right.

19 (Exhibit 11 marked for  
20 identification.)

21 Q. The court reporter has just handed  
22 you what's been marked as Cougill Exhibit 11.

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1 Do you recognize this document?

2 A. Yes.

3 Q. This is your Schedule A and Form  
4 2106 that you submitted to the IRS with your  
5 2010 tax return?

6 A. Yes.

7 Q. In 2010 reported to the IRS that you  
8 spent \$10,783 in un- reimbursed employee  
9 expenses. Is that right?

10 A. Yes.

11 Q. And can you tell me how you reached  
12 that number of 10,783?

13 A. I gave him the receipts for all my  
14 business expenses.

15 Q. And what business expenses are  
16 those?

17 A. Those would have included my cell  
18 phone bill, my car expenses, meals and  
19 entertainment, licensing, anything else.

20 Q. On the second page of Form 2106 you  
21 reported that you spent \$848 for meals and  
22 entertainment expenses in 2010, right?



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1 A. Yes.

2 Q. That's almost double what you spent  
3 in 2009, right?

4 A. Yes.

5 Q. And how did you come to spend almost  
6 double on meals and entertainment in 2010?

7 A. I joined the BNI Group in 2010, I  
8 believe.

9 Q. So are you saying that you spent  
10 money for BNI?

11 A. Yes.

12 Q. How much?

13 A. I don't have the receipts in front  
14 of me, but I'm assuming that the fact that I  
15 had to purchase my own lunch when I went to the  
16 group meetings. We moved from one -- like an  
17 inexpensive diner -- to a country club that  
18 year.

19 Q. So the cost a month was more?

20 A. I didn't eat lunch at the prior  
21 place because I don't normally eat lunch. But  
22 I had to pay for my lunch in 2010 and 11

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1 because we moved to the country club and that  
2 included to be able to be sitting at the table  
3 I had to purchase lunch.

4 Q. On the third page of the document  
5 which is the second page of Form 2106 you  
6 reported that you drove 10,833 miles in 2010  
7 for business purposes. Did you drive 10,833  
8 miles for business purposes in 2010?

9 A. I don't know.

10 Q. How did you come to that number?

11 A. I gave my accountant my odometer  
12 reading for the beginning of the year and the  
13 ending of the year, and he calculated the  
14 business miles.

15 Q. You didn't give him any other  
16 information regarding your actual use of your  
17 car for business purposes in 2010, right?

18 A. Right.

19 Q. So this number is not accurate?

20 A. It's accurate to me.

21 Q. It's accurate to you because the  
22 accountant calculated it?

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1 A. Yes.

2 Q. But you don't know if that's  
3 actually the number of miles that you drove for  
4 business purposes in 2010?

5 MR. ZAUN: Objection. Asked and  
6 answered.

7 BY MS. MURAKAMI:

8 Q. You can answer the question.

9 A. I told you already. I gave him my  
10 mileage. He calculated it based on what his  
11 knowledge is as a CPA that I can take for my  
12 total mileage. And otherwise he would ask me  
13 to keep a business log. Every single year he  
14 has asked me for my beginning mileage and my  
15 ending milage, period. That's all he's asked  
16 me for.

17 Q. So your accountant just assumes how  
18 much time you spent actually?

19 A. I can't answer that question. I  
20 can't answer that. I don't know what he  
21 assumes and what he doesn't.

22 Q. Either way, you represented it to

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1 the U.S. Government that you drove 10,833 miles  
2 for business purposes in 2010?

3 A. Correct.

4 Q. And No.18 states:

5 "Was your vehicle available for  
6 personal use during off duty hours?"  
7 you checked "no".

8 A. I didn't check anything. But he  
9 did. He didn't ask me that.

10 Q. He submitted this form on your  
11 behalf?

12 A. Yes.

13 Q. And you should have reviewed it  
14 before he submitted it to the IRS, right?

15 A. Excuse me.

16 Q. You should have reviewed the  
17 document before you submitted it to the IRS?

18 A. I didn't.

19 Q. You didn't review it?

20 A. No.

21 I don't know the law. If I --

22 Q. There's no question before you.

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1 No. 2 asks:

2 "Do you have evidence to support  
3 your deduction?"

4 And you checked "yes".

5 Do you have evidence to support your  
6 deduction?

7 A. Yes.

8 Q. What's your evidence?

9 A. My receipts.

10 Q. Do you have any evidence to support  
11 your deduction that related to your mileage?

12 A. Yes. My odometer reading.

13 Q. Only the beginning and the ending,  
14 right? For each year.

15 A. Correct.

16 Q. And that's all?

17 A. Correct.

18 Q. You have a house, don't you, on the  
19 Rappahannock River?

20 A. Yes.

21 Q. When did you get that house?

22 A. 2005.

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1 Q. Do you ever drive your car to the  
2 house on the Rappahannock?

3 A. Yes.

4 Q. So given that, then it's probably  
5 not accurate to say that you used your car  
6 90 percent of the time for business?

7 A. I don't know what's accurate or not.  
8 It's not accurate. I didn't make this return.  
9 I gave him what he asked me for. He's the  
10 accountant. He filed the tax on my behalf.

11 Q. How often do you go to your house on  
12 the Rappahannock?

13 A. It varies.

14 Q. Can you give an estimate?

15 A. Once or twice a month.

16 Q. All year?

17 A. Yes.

18 Q. And how far is the house from where  
19 you live?

20 A. 90 miles. But I don't always drive  
21 my car.

22 (Exhibit 12 marked for

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1 identification.)

2 Q. The court reporter has just handed  
3 you what's been marked as Cougill Exhibit 12.  
4 Do you recognize this document?

5 A. Yes.

6 Q. This is your Schedule A and Form  
7 2106 that you submitted with your 2011 tax  
8 return?

9 A. Yes.

10 Q. And in 2011 you reported spending  
11 \$13,782 in un- reimbursed employee expenses on  
12 Line 21, right?

13 A. Yes.

14 Q. And how did you reach that number?

15 A. I gave any accountant my business  
16 expenses.

17 Q. And what are those business  
18 expenses?

19 A. My cell phone, my car expenses, my  
20 meals, entertainment, licensing, expenses,  
21 client gifts, closing gifts.

22 Q. And on the second page of the

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1 document, this is the first page of Form 2106,  
2 you reported spending \$772 in meals and  
3 entertainment expense?

4 A. Yes.

5 Q. And can you tell me what were those  
6 meals and entertainment expenses?

7 A. Those were the meals that I paid for  
8 to either get work at my BNI Group, or take  
9 those BNI --  
10 -- meet those BNI people for coffee  
11 or lunch.

12 Q. On the third page of the document,  
13 Form 2106, you reported to the IRS that on Line  
14 13 that you drove 9,927 business miles in 2011.  
15 Is that right?

16 A. Yes.

17 Q. In fact, the percent of business use  
18 on Line 14, 75 percent, is exactly the same  
19 percentage that you reported on your 2010  
20 return as well, right?

21 A. Correct.

22 Q. So it looks like what your



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1 accountant did is he chose a percentage, then  
2 he reported that as your business miles?

3 MR. ZAUN: Objection. Calls for  
4 speculation.

5 MS. MURAKAMI: If you know.

6 THE WITNESS: I have no idea.

7 BY MS. MURAKAMI:

8 Q. And you don't have a mileage log for  
9 the miles that you drove in 2011, do you?

10 A. No.

11 Q. When you worked at Prospect  
12 Mortgage, did you take a lunch break?

13 A. No.

14 Q. You never took a lunch break?

15 A. I won't say "never", but I don't eat  
16 lunch during the day.

17 (Exhibit 13 marked for  
18 identification.)

19 Q. The court reporter has handed you  
20 what's been marked as Exhibit 13. Do you  
21 recognize this document?

22 A. Yes.

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1 Q. This was among the documents that  
2 you produced today, right?

3 A. Yes.

4 Q. And is this part of your credit card  
5 report from American Express?

6 A. Yes.

7 Q. And so there are a number of  
8 expenses incurred at the beginning of --  
9 -- throughout 2011 at a number of  
10 restaurants, including Panera Chipotle, Pizza  
11 Hut, et cetera?

12 Can you give me an explanation for  
13 those expenses?

14 A. Yes. Basically the Panera is where  
15 we met for the BNI, if we met. The BNI Group  
16 consisted of 20 to 25 members of all different  
17 professions that we used to meet with. They  
18 called it a face-to-face, 30 minute meeting to  
19 try to get to know each other better so we  
20 could refer business to each other. That was  
21 what the BNI Group was all about. So besides  
22 having the lunch meeting, we would try to have

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1 one-on-one meetings.

2 Q. So these Panera meetings are in  
3 addition to the lunch meetings that you talked  
4 about earlier?

5 A. Correct.

6 Q. Okay. What about the other charges?

7 A. Just various restaurants where  
8 sometimes --

9 Obviously, Pizza Hut, this could  
10 have been a Lunch & Learn that I did because I  
11 provided a pizza. Panera, Chipotle, might have  
12 been a meeting I met somebody, again, for a  
13 BNI.

14 Q. Okay. Anything else?

15 A. Same with Chili's. They're very  
16 small charges, so they're probably lunches. We  
17 didn't pay for each other's lunches. We just  
18 paid for our own.

19 MS. MURAKAMI: Could I look at that  
20 time Document one more time?

21 So for each of these expenses under  
22 bar and cafe in 2011 are you saying that all of

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1 Q. How often?

2 A. I took one week off. I think it was  
3 in '08 and I went to our river house during  
4 the, I think it was July 4th holiday.

5 Q. Okay.

6 A. I worked the entire time.

7 Q. So you didn't actually take off?

8 A. I worked from my house almost the  
9 entire week.

10 Q. Any other weeks you remember where  
11 you took off?

12 A. No.

13 Q. You resigned from Prospect, right?

14 A. Yes.

15 Q. In October of 2011?

16 A. October 3rd.

17 2d or 3rd.

18 Q. And why did you resign?

19 A. Because I worked too many hours and  
20 I didn't get paid enough money.

21 Q. Any other reason?

22 A. That was the only reason I resigned.



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1 I got a better offer for more money and hoped  
2 that I wouldn't have to work as many hours and  
3 do as many activities as they required.

4 (Exhibit 14 marked for  
5 identification.)

6 Q. The court reporter has handed you  
7 what's been marked as Cougill Exhibit 14. Do  
8 you recognize this document?

9 A. Yes.

10 Q. And this is the your 2008 W-2's?

11 A. Yes.

12 Q. And so in 2008 you received a W-2  
13 from IndyMac where you received \$20,603 in  
14 wages tips and other compensation in 2008?

15 A. Yes.

16 Q. And this is income you earned prior  
17 to Prospect taking over for IndyMac?

18 A. Yes.

19 Q. And so then the second page is your  
20 2008 W-2 from MetroCities Mortgage. And  
21 MetroCities was a Prospect company, right?

22 A. Yes.

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1 least one?

2 A. A lunch appointment it looks like  
3 with Jane Renger.

4 (Exhibit 21 marked for  
5 identification.)

6 Q. The court reporter has handed you  
7 what's been marked as Cougill Exhibit 21. Do  
8 you recognize this document?

9 A. Yes.

10 Q. And what is this document?

11 A. This is a business plan that I may  
12 have submitted to Rick Eaheart.

13 Q. Were all the loan officers required  
14 to submit business plans?

15 A. Yes.

16 Q. And would you submit it at the  
17 beginning of the year?

18 A. I suppose. Probably at the end of  
19 the year for next year.

20 Q. So like at the end of 2010 you  
21 submitted the plan for 2011?

22 A. I assume. Yes.



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1 Q. And so your goal was to close a loan  
2 every 2.5 days. Is that right?

3 A. Looks like it. Yes.

4 Q. At the bottom of Page 1 lists a  
5 number of prospecting sources. Can you tell me  
6 about those? Who are those people?

7 A. Those were my referral partners.

8 Q. Are they all real state agents?

9 A. Yes.

10 Q. Fort Lee No. 1, what does that mean?

11 A. Not sure, but that's where I did my  
12 Home Buyer Classes.

13 Q. So was it a priority for you to do  
14 the Home Buyer Classes?

15 A. Priority? It wasn't a priority, but  
16 it was on part of my business plan.

17 Q. It was part of your plan to do the  
18 Home Buyer Seminars?

19 A. Correct.

20 Q. At Fort Lee?

21 A. Right.

22 Q. If you look at the second page of

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1 Exhibit 21, at the bottom of the page you note  
2 a number of tools, right?

3 A. Correct.

4 Q. And part of your goal was to meet  
5 with two agents weekly for HBM Dialing For  
6 Dollars?

7 A. Correct.

8 Q. What is Dialing For Dollars?

9 A. Hour of Power.

10 Q. Hour of Power. Just another name?

11 A. Yes.

12 Q. So you had a goal to meet  
13 face-to-face with two agents weekly?

14 A. Correct.

15 Q. And you had a goal to do four to six  
16 monthly open houses?

17 A. Correct.

18 Q. Did you actually do four to six  
19 monthly open houses?

20 A. I don't know. I don't remember.

21 Every month varied. It depended.

22 We did the open houses on the foreclosed





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1 (Exhibit 22 marked for  
2 identification.)

3 Q. The court reporter has handed you  
4 what's been marked as Cougill Exhibit 22. Do  
5 you recognize this document?

6 A. Yes.

7 Q. This is also among the documents  
8 that you produced to us today, right?

9 A. Yes.

10 Q. Can you tell me what the document  
11 is?

12 A. This is just a notification that one  
13 of the loans that I had in the pipeline closed  
14 successfully, and that is the funding amounts.

15 Q. So this is just an automatic e-mail  
16 that you get once a loan is closed?

17 A. Yes. It came out of the system they  
18 used, the production system, operation system.  
19 So it was automatically generated once the loan  
20 reached certain stages of the process and once  
21 it funded it was automatically sent to us in an  
22 e-mail with the steps that they wanted us to



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1 follow to leverage, again, more contacts.

2 Q. At the bottom of the e-mail under  
3 "Other Things to Remember" there are five  
4 things listed. Questions listed there, right?

5 A. Correct.

6 Q. It looks like there are questions  
7 that the company is asking you to think about.  
8 Is that right?

9 A. Correct.

10 Q. And the third question asks:

11 "How much time I'm spending  
12 prospecting versus desk sitting."

13 Do you see that?

14 A. Yes.

15 Q. And what do you interpret that to  
16 mean?

17 A. How much time I spend prospecting  
18 versus desk sitting. Doing what they used to  
19 call -- there's a term for it that they had --  
20 means what activities am I doing to drive  
21 business, you know, to close loans versus just  
22 sitting at your desk doing nothing.

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1 with but had to sign anyway.

2 Q. Except For the Employment Agreement  
3 and the Outside Sales Agreement, right? Which  
4 is what you received in writing.

5 A. Correct.

6 Q. Ms. Cougill, nobody told you there  
7 were a certain number of hours you needed to  
8 spend in the office, right?

9 A. Nobody told me there were a certain  
10 number of hours I had to spend in the office?

11 Q. Right.

12 A. No.

13 Q. No one told you that you had to be  
14 at your office at 9 or 8 or whatever time you  
15 arrived at the office?

16 A. No other than the calls we had with,  
17 you know, the Todd Duncan's, the Hour of Power.

18 Q. Other than the scheduled meetings  
19 and trainings?

20 A. Yes.

21 Q. But you didn't have set office  
22 hours?